

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NATIONAL RAILROAD PASSENGER CORPORATION,

Plaintiff,

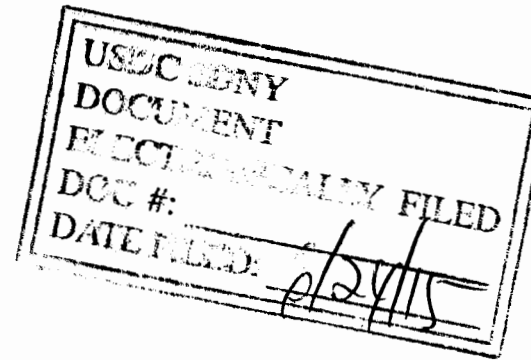
-v-

ARCH SPECIALTY INSURANCE COMPANY;
ASPEN SPECIALTY INSURANCE COMPANY;
COMMONWEALTH INSURANCE COMPANY;
FEDERAL INSURANCE COMPANY;
LEXINGTON INSURANCE COMPANY;
LIBERTY MUTUAL FIRE INSURANCE COMPANY;
CERTAIN UNDERWRITERS AT LLOYD'S OF
LONDON and CERTAIN LONDON MARKET
COMPANIES Subscribing to Policy Nos.
507/N11NA08240, 507/N11NA08241,
507/N11NA08242, 507/N11NA08244,
507/N11NA08244, 507/N11NA08245 and GEP 2944;
MAIDEN SPECIALTY INSURANCE COMPANY;
MAXUM INDEMNITY COMPANY;
NAVIGATORS INSURANCE COMPANY;
PARTNER REINSURANCE EUROPE plc;
RSUI INDEMNITY COMPANY;
STEADFAST INSURANCE COMPANY;
TORUS SPECIALTY INSURANCE COMPANY;
and WESTPORT INSURANCE CORPORATION,

Defendants.
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14-cv-7510 (JSR)

ORDER



JED S. RAKOFF, U.S.D.J.

Plaintiff National Railroad Passenger Corporation ("Amtrak") brings this insurance action against various defendant-insurers, seeking declaratory relief and damages. Pending before the Court are all defendants' motion for summary judgment with respect to the application of the insurance policies' flood and occurrence provisions; all defendants' motion for summary judgment with respect to the replacement of benchwalls and track bed; and defendant

Partner Reinsurance Europe plc's motion for summary judgment dismissing it from the case.

Upon consideration, the Court makes the following rulings:

First, the Court finds that the inundation of Amtrak's property in the aftermath of Superstorm Sandy falls within the unambiguous scope of the definition of "flood" in the insurance policies at issue; that Amtrak did not suffer "ensuing loss"; and that Amtrak's losses arose from a single "occurrence" as defined by the insurance policies at issue. Accordingly, the Court grants defendants' motion for summary judgment with respect to the application of the insurance policies' flood and occurrence provisions and dismisses from this action defendants Aspen Specialty Insurance Company as respects Policy No. PX5705611; Commonwealth Insurance Company; Lexington Insurance Company as respects Policy No. 0841442820; Certain Underwriters at Lloyd's and London Market Companies subscribing to Policy Nos. 507/N11NA08242, 507/N11NA08244, 507/N11NA08244, 507/N11NA08245, and GEP 2944; and Maiden Speciality Insurance Company, Partner Reinsurance Europe plc, Steadfast Insurance Company, Torus Specialty Insurance Company, and Westport Insurance Corporation.

Second, the Court finds that the Demolition and Increased Cost of Construction provision in the insurance policies at issue does not provide coverage for the portions of the benchwalls and track bed not damaged by Superstorm Sandy, but the Court makes no finding regarding the extent of the inundation or damage of those

structures. Accordingly, the Court grants in part and denies in part defendants' motion for summary judgment with respect to the replacement of the benchwalls and track bed.

Third, the Court dismisses the motion for summary judgment of defendant Partner Reinsurance Europe plc as moot.

A Memorandum explaining the reasons for these rulings will issue in due course.

SO ORDERED.

Dated: New York, NY
June 29, 2015


JED S. RAKOFF, U.S.D.J.